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WHAT CONSTITUTES A PASSENGER'S BAGGAGE.

Generally.—It is impossible to lay down any hard and fast rule defining specifically what will constitute baggage in all circumstances. The question depends upon the purpose of the passenger's journey, his social standing, etc., and therefore only general rules can be stated that will be applicable in all cases. It is said that baggage includes such articles of personal convenience or necessity as are usually carried by passengers for their personal use, and not merchandise or other valuables, although carried in the trunks of passengers, which are not, however, designed for any such use, but for other purposes, such as a sale or the like.¹

“An examination of the authorities makes it evident that articles which may be convenient or necessary for one person might not be for another, or that which might appropriately and properly be classed as baggage upon one journey and for one purpose, might not be so for another journey and for another purpose. That which might be necessary for the convenience of a female passenger might not be so for one of the other sex. That which might be a convenience and almost a necessity for a traveler in one condition of life might be superfluous and wholly useless in the case of another, whose habits and condition in life were wholly different. From the very nature of the subject, it is obviously impracticable to prescribe any uniform or very definite rule in respect to what shall be deemed baggage to be applied as a fixed rule for every case. This must be left to the jury to determine in each particular case, from the habits, rank, and condition of the party, the extent and reasonable expenses of the journey, together with all the circumstances relevant to the inquiry.”²

“Whatever the passenger takes with him for his personal use or convenience according to the habits or wants of the particular class to which he belongs, either with reference to the

1. Hutchinson, *Carriers*, 3d ed., § 1242; note in 7 N. C. C. A. 972.

2. *Doerner v. St. Louis & S. F. R. Co.*, 149 Mo. App. 170, 7 N. C. C. A. 973n, 130 S. W. 62.

immediate necessities, or to the ultimate purpose, of the journey, must be considered as personal luggage." ³

"Whether or not certain articles are within the term 'baggage' is to be determined from the character and length of the journey, its purposes and objects, the owner's station in life, and the habits and uses of the class of travelers to which he belongs." ⁴

This is the extent of the carrier's liability to the passenger for loss of or damage to his baggage, because it marks the extent of its notice of the character and value of the passenger's baggage.

Where Passenger Does Not Accompany.—Whether or not articles which would otherwise constitute baggage are to be regarded as such when checked on a ticket by a person who does not accompany them and does not make the journey soon thereafter or by the same route, is not settled. In a leading Michigan case it is held that one who purchases a railroad ticket for the sole purpose of checking his baggage, with the intention of going to his destination in his private conveyance, can hold the carrier liable only as gratuitous bailee.⁵

This theory was repudiated in a Minnesota case,⁶ in which the court held that, in view of modern methods of checking baggage, and the custom of regularly checking on presentation of a ticket, there is no good reason why a passenger should necessarily go on the same train which carries his baggage. This rule was substantially followed in a Georgia case.⁷ In this case, however, it was held that if the contract of carriage requires the passenger

3. *Macrow v. Great Western R. Co.*, L. R. 6 Q. B. 612, 621, quoted approvingly in *Hashbrouck v. New York Cent. & H. R. R. Co.*, 202 N. Y. 363, 35 L. R. A. (N. S.) 537, 95 N. E. 808.

4. *Missouri, K. & T. R. Co. v. Meek* (Tex. Civ. App.), 75 S. W. 317 (1903).

5. *Marshall v. Pontiac, O. & N. R. Co.*, 126 Mich. 45, 55 L. R. A. 650, 85 N. W. 242.

6. *McKibben v. Wisconsin C. R. Co.*, 100 Minn. 270, 110 N. W. 964, 8 L. R. A. (N. S.) 489, 117 Am. St. Rep. 689.

7. *Southern R. Co. v. Dinkins, etc., Co. (Ga.)*, 77 S. E. 806, 43 L. R. A. (N. S.) 806 (1913).

to travel on the same date which his baggage is checked, such provision is controlling.

This question being somewhat foreign to the scope of this article, no attempt is made to treat it exhaustively.⁸

Articles Intended for Gifts.—It seems that articles intended as gifts to members of the passenger's family, the articles being reasonable in number and value, properly constitute baggage.⁹ But this rule does not extend to articles intended as presents for friends.¹⁰

Twelve yards of dress goods,¹¹ wearing apparel and other articles, including material for two dresses,¹² intended for use by members of the passenger's family, constituted baggage.

Articles of jewelry, intended to be presented to friends, do not constitute baggage.¹³

Money.—A passenger is entitled to carry an amount of money that is reasonable in view of the probable expenses of the journey.¹⁴ Whether the amount claimed in case of loss is reasonable or excessive depends upon the character of the journey, and all other special circumstances.¹⁵

"With respect to money, the rule appears to be well settled that money can only be considered as baggage if bona fide taken for traveling expenses and personal use on the trip, and it therefore

8. Notes fully treating this subject may be found in 43 L. R. A. (N. S.) 806, and 55 L. R. A. 650.

9. *Kansas City S. R. Co. v. Skinner*, 88 Ark. 189, 113 S. W. 1019, 21 L. R. A. (N. S.) 850; *Jones v. Priester*, 1 Tex. App. Civ. Cas. 326; note in 21 L. R. A. (N. S.) 850.

10. *Nevins v. Bay State S. B. Co.*, 4 Bosw. 225.

11. *Kansas City S. R. Co. v. Skinner*, 88 Ark. 189, 113 S. W. 1019, 21 L. R. A. (N. S.) 850.

12. *Dexter v. Syracuse, B. & N. Y. R. Co.*, 42 N. Y. 326, 1 Am. Rep. 527.

13. *Nevins v. Bay State S. B. Co.*, 4 Bosw. 225.

14. *Jordan v. Fair River R. Co.*, 5 Cush. 69, 51 Am. Dec. 44; *Hasbrouck v. New York Cent. & H. R. R. Co.*, 202 N. Y. 363, 35 L. R. A. (N. S.) 537, 7 N. C. C. A. 975, 95 N. E. 808, affirming 137 App. Div. 532, 64 Misc. 478; *Fairfax v. New York, etc., R. Co.*, 73 N. Y. 167.

15. *Merrill v. Grennell*, 30 N. Y. 610.

appears that it is always necessary to aver and prove that such was the purpose for which the money was carried, and the amount must be limited to such as a reasonably prudent man would consider necessary for the purpose." ¹⁶

Where a blacksmith was traveling between two points in the state of Texas, to visit his children, and carried on his person about \$80, it was held that \$157 carried in his trunk was baggage, his visit extending over a period of 10 or 15 days." ¹⁷

Where the plaintiff and his wife were traveling together it was held that he was entitled to carry \$145 as baggage, he having testified that that amount was not more than was reasonable for the expenses of himself and wife on the trip. ¹⁸

Money carried solely for the purpose of transportation, is not baggage. ¹⁹ Nor is money carried for business purposes. ²⁰

"Baggage does not include funds carried for the purpose of transportation and remittance, or for investment in another locality. It should be limited to money taken for traveling expenses properly so called. When thus limited, the principle does not involve any departure from the rule that the liabilities of the carrier are imposed in respect to the compensation paid, but is in strict accordance with that principle." ²¹

Jewelry.—Where there was evidence that the plaintiff was a lady of prominence; that while a passenger on one of the defendant's trains, she carried among other things in a grip, three rings, valued at nearly \$1,500, which were stolen by a train employee; that the rings were adapted to her social position; that she was in the habit of wearing them at parties and receptions; that she was on her way to visit her daughter, who was attending school; and that she expected to attend a reception that evening, it was held that she was entitled to recover for the

16. *San Antonio & A. P. R. Co. v. Green* (Tex. Civ. App.), 170 S. W. 110, 7 N. C. C. A. 972 (1914).

17. *Texas & N. O. R. Co. v. Lawrence*; 42 Tex. Civ. App. 318, 95 S. W. 663.

18. *Godfrey v. Pullman Co.*, 87 S. C. 361, 7 N. C. C. A. 976n.

19. *Orange County Bank v. Brown*, 9 Wend. 85.

20. *Hickox v. Naugatuck R. Co.*, 31 Conn. 281, 83 Am. Dec. 143.

21. *Merrill v. Grennell*, 30 N. Y. 610.

loss of the rings on the theory that they constituted baggage.²²

In an action to recover for the loss of a ring valued at \$150, there was evidence that the plaintiff and his wife were traveling together; that his wife always wore the ring and never had it off her hand before this occasion, except once, to have it repaired; that on this occasion she gave it to the plaintiff, because the stone was loose and she feared she would lose it; that she gave it to him, asking him to keep it in his pocketbook until they could get it fixed, and that they intended to have it fixed while on the trip. Held, that the ring was baggage.²³

A passenger's trunk, in addition to clothing, contained a gold match box with diamond setting, valued at \$260; an onyx ring, valued at \$14; a pearl in diamond setting, of the value of \$150; a scarf pin, valued at \$38; a silver cross, valued at \$2; a silver watch charm, value \$6; cuff buttons, of the value of \$45; and a plain gold match box, valued at \$20. In an action against the railroad company to recover for the loss of said trunk and contents the question whether the enumerated articles constituted baggage was submitted to the jury by an instruction advising them that a passenger over any railroad was entitled to carry with him his baggage, which meant those articles of personal comfort, convenience, and adornment usually taken by a traveler on a journey or visit. The jury found that the articles were baggage, and on appeal such finding was upheld.²⁴

A widow, sixty-nine years of age, who gave her occupation as that of housewife, who had made four trips to Europe for pleasure during the preceding ten years, who had been to California five or six times, who had traveled over Mexico and the greater part of the United States, who owned a home, and lived on her income, and who was in what some would call good circumstances, was held, in a Missouri case, to be entitled to carry a diamond breastpin, valued at \$300, as baggage.²⁵

22. *Hasbrouck v. New York Cent. & H. R. R. Co.*, 202 N. Y. 363, 7 N. C. C. A. 975, 35 L. R. A. (N. S.) 537, affirming 137 App. Div. 532, 64 Misc. 478.

23. *Godfrey v. Pullman Co.*, 87 S. C. 361, 7 N. C. C. A. 976n.

24. *Robert v. Chicago & A. R. Co.*, 148 Mo. App. 96, 7 N. C. C. A. 974, 127 S. W. 925.

25. *Doerner v. St. Louis & S. F. R. Co.*, 149 Mo. App. 170, 7 N. C. C. A. 974n, 130 S. W. 62.

A necklace of the value of \$250 has been held to be baggage.²⁶

A gold locket and chain, of the value of \$6,²⁷ a gold pen,²⁸ a watch,²⁹ an opera glass,³⁰ a gold chain, rings, and a silver pencil case³¹ have been held to constitute baggage.

A lady's jewelry carried by a traveling man, in his trunk, solely for the purpose of transportation, is not baggage.³²

Tools or Appliances of Trade or Profession.—The tools of a mechanic, if reasonable in quantity, and of a character which such mechanics usually carry on such a journey as the one in question for their personal use at their destination, are baggage. Whether in character, quantity and value, they come within the definition of baggage, must be determined by the jury.³³

The tools of a watchmaker and jeweler, in reasonable quantity, may constitute baggage.³⁴

An army surgeon traveling with troops may carry a case of surgical instruments as baggage.³⁵

A barber, traveling in search of employment, was held to properly carry with him, as baggage, razors and other barber tools, of the value of \$58.75, used by him in his profession.³⁶

Paraphernalia carried by a theatrical company are not baggage.³⁷

Clothing.—Whether or not clothing constitutes baggage depends upon whether it is appropriate to the journey and the pur-

26. *Sherman v. Pullman Co.*, 79 Misc. (N. Y.) 52.

27. *St. Louis, I. M. & S. R. Co. v. Miller*, 103 Ark. 37.

28. *St. Louis & S. F. R. Co. v. Dickerson*, 29 Okla. 386, 118 Pac. 140, 7 N. C. C. A. 976n.

29. *McCormick v. Hudson R. R. Co.*, 4 E. D. Smith 181.

30. *Toledo W. & W. R. Co. v. Hammond*, 33 Ind. 379.

31. *Bruty v. Grand Trunk R. Co.*, 32 Upp. Can. (Q. B.) 66.

32. *Metz v. California S. R. Co.*, 85 Cal. 329, 9 L. R. A. 431.

33. *Missouri, K. & T. R. Co. v. Meek* (Tex. Civ. App.), 75 S. W. 317 (1903).

34. *Wells v. Great Northern R. Co.*, 59 Ore. 165. N. C. C. A. 659, 114 Pac. 92.

35. *Hannibal & St. J. R. Co. v. Swift*, 79 U. S. (12 Wall.) 282, 20 L. Ed. 423.

36. *Grzywacz v. New York C. & H. R. R. Co.*, 74 Misc. (N. Y.) 343, 7 N. C. C. A. 979n, affirmed 149 App. Div. 936.

37. *Saunders v. Southern R. Co.*, 128 Fed. 15, 62 C. C. A. 523.

pose of the journey. One returning home in the month of September from a place where he had stayed the preceding winter was entitled to carry a winter suit of clothes with him as baggage, although he had no use for it "until cold weather, or fashion's decree, regardless of climatic conditions, authorized its use."³⁸

Where a mechanic took a trip in the summer time, for a short distance only, it was held to be error for the court to assume, as matter of law, that heavy winter clothing carried by him came within the definition of baggage.³⁹

Razors.—"It is a matter of common knowledge that razors are used by men upon journeys and upon the completion thereof, and the court did not err in holding that no explanatory allegations were required to show that the two razors constituted baggage."⁴⁰

Books, etc.—Books and manuscripts such as are usually carried, having regard to the object and length of the journey, for the use and enjoyment of the passenger while on the journey, or in connection with or accomplishing the purposes of the journey, are regarded as baggage.⁴¹

A student, author, or professional man may carry, as baggage, manuscripts for study or for business.⁴²

Household Goods.—Ordinary household goods do not constitute baggage;⁴³ but the question depends upon the nature and object of the journey and the intended use of the articles.

Baggage for "the purpose of the journey" does not include such household goods as bedding, table linen, table and dresser covers, curtains, draperies, chinaware, silverware, clock, etc.,

38. *San Antonio & A. P. R. Co. v. Green* (Tex. Civ. App.), 170 S. W. 110, 7 N. C. C. A. 972 (1914).

39. *Missouri, K. & T. Co. v. Meek* (Tex. Civ. App.), 75 S. W. 317 (1903).

40. *San Antonio & A. P. R. Co. v. Green* (Tex. Civ. App.), 170 S. W. 110, 7 N. C. C. A. 972 (1914).

41. *Werner v. Evans*, 94 Ill. App. 328; *Staub v. Kendrick*, 121 Ind. 226, 23 N. E. 79, 6 L. R. A. 619; note in 41 L. R. A. (N. S.) 371.

42. *Hopkins v. Westcott*, 6 Blatchf. 64.

43. *Bruty v. Grand Trunk R. Co.*, 32 Upp. Can. (Q. B.) 66; note in 39 L. R. A. (N. S.) 634.

where the purpose of the journey is to change the place of abode.⁴⁴

Quilts, feather pillows, bedticking, pillowcases, and sheets, carried in a passenger's trunk, not intended to be used at any stage of the journey, but intended for use by him in and about his housekeeping when he reached his home, were not baggage.⁴⁵

Bedding carried by immigrants for their use and comfort on the journey was held to be baggage.⁴⁶

Feather beds and coverings of an immigrant and her small children, were held, "under the circumstances," to constitute baggage.⁴⁷

Where the plaintiff and his wife were changing their home, it was held that table cutlery, napkins, tablecloths, curtains, pillowcases, and a pyrography outfit were properly carried as baggage.⁴⁸

Bedding belonging to a poor man, moving with his family, may constitute baggage. "It is very common for such persons to take such articles with them as baggage—their poverty makes it necessary, and such things are frequently about all they have that would make baggage. They are not merchandise, are of small value, may be put in a box or trunk like apparel, are frequently of immediate and necessary personal use to the owners; and both from custom, and from a regard to the poverty of such travelers, are often and properly treated as baggage."⁴⁹

Household articles for third persons do not constitute baggage.⁵⁰

Pulpit Cover.—Where there was no evidence tending to show that the plaintiffs, or either of them, were ministers of the gos-

44. *Yazoo & M. V. R. Co. v. Baldwin*, 113 Tenn. 205, 81 S. W. 599.

45. *Central of Georgia R. Co. v. Courson* (Ala. App.), 65 So. 698, 7 N. C. C. A. 977n (1914).

46. *Missouri P. R. Co. v. York*, 2 Tex. App. Civ. Cas. 557; In *Parmelee v. Fischer*, 22 Ill. 212, 74 Am. Dec. 138, recovery was allowed for certain household articles.

47. *Glovinsky v. Cunard S. S. Co.*, 4 Misc. 266, 24 N. Y. Supp. 136.

48. *House v. Chicago & N. W. R. Co.*, 30 S. D. 321.

49. *Quimit v. Henshaw*, 35 Vt. 605, 84 Am. Dec. 646.

50. *Smith v. Cincinnati H. & D. R. Co.*, 3 Ohio S. & C. P. Dec. 192, 2 Ohio N. P. 29.

pel, or engaged in any business in which a pulpit cover might be used by them while traveling, or for their personal equipment, it was held that such pulpit cover was not baggage, and that it should have been so declared by the trial court as matter of law.⁵¹

Dress Goods and New Suit Case.—It has been held that a new suit case, and a dress pattern consisting of 12 yards of woolen goods, both of which the passenger had purchased and was conveying in his trunk, to his home, the suit case for his own use and the goods for use by a member of his family, were baggage.⁵²

Firearms.—Firearms constitute baggage when carried by one on a sporting expedition, or for other reasonable and proper purpose for which the journey is made.⁵³

If it does not appear that a passenger was going on a hunting expedition, or that he needed a gun for his own comfort or convenience, protection or defense, on the journey, a gun carried by him among his other belongings did not constitute baggage.⁵⁴

One revolver may be carried as baggage when an additional one, in view of the purpose of the trip, cannot.⁵⁵

Where the plaintiff and his wife were traveling for the purpose of changing their home, a gun and gun case carried in a trunk containing certain household articles, were held not to be baggage as matter of law.⁵⁶

Bicycle.—Aside from statutory enactment to the contrary, bicycles are generally held not to constitute baggage.⁵⁷

Camping and Fishing Equipment.—Persons on an outing trip may carry as baggage clothing, quilts, seine, tent, cooking uten-

51. *St. Louis & S. F. R. Co. v. Dickerson*, 29 Okla. 386, 118 Pac. 140.

52. *Kansas City S. R. Co. v. Skinner*, 88 Ark. 189, 113 S. W. 1019, 21 L. R. A. (N. S.) 850.

53. *Hawkins v. Hoffman*, 6 Hill 586, 41 Am. Dec. 767; *Woods v. Devin*, 13 Ill. 746, 56 Am. Dec. 483; note in 21 Am. Cas. 732.

54. *Denver & R. G. R. Co. v. Johnson*, 50 Colo. 187, 114 Pac. 650, 7 N. C. C. A. 978n.

55. *Chicago, etc., R. Co. v. Collins*, 56 Ill. 212.

56. *House v. Chicago & N. W. R. Co.*, 32 S. D. 209, 142 N. W. 736.

57. *State ex rel. v. Missouri Pac. R. Co.*, 71 Mo. App. 385; note in 47 L. R. A. 306.

sils, groceries, etc., necessary or convenient for the purpose of their trip.⁵⁸

Hotel Supplies.—Hotel supplies, such as laundry baskets, dishes, sheets, pillowcases, towels, tablecloths, napkins, bread trays, etc., do not constitute baggage.⁵⁹

Photographs.—A representative of a firm of furniture manufacturers, traveling to visit furniture buyers to interest them in his line of goods, carried 1,000 photographs of various kinds and designs of furniture, to be shown to prospective customers. On the backs of the photographs were jotted down memoranda of the woods of the furniture and of the prices thereof. They covered the firm's line of furniture completely, while its catalog did not, and were carried for use when samples of the furniture could not be shown. It was held that the photographs, in the circumstances, constituted baggage.⁶⁰

The contrary view was taken in an Iowa case, in which it was held that such photographs were carried for purely commercial purposes, in that they represented the goods to be sold, and could not be distinguished from the samples themselves.⁶¹

Samples.—Goods or samples carried for use in making sales, have been held not to constitute baggage, unless accepted as such by the carrier with knowledge of their character.⁶²

It is said that when things are carried for business purposes, they can in no sense be regarded as for personal use or convenience so as to bring them within the definition of baggage.⁶³

C. P. BERRY, in *Central Law Journal*.

St. Louis, Mo.

58. Chicago, R. I. & P. R. Co. v. Whiten, 90 Ark. 462.

59. St. Louis, I. M. & S. R. Co. v. Miller, 103 Ark. 37.

60. Wingate v. Pere Marquette R. Co., 172 Ill. App. 314, 7 N. C. C. A. 979-980n.

61. McElroy v. Iowa C. R. Co., 133 Ia. 544, 110 N. W. 915.

62. Southern R. Co. v. Dinkins, etc., Co. (Ga.), 77 S. E. 147, 43 L. R. A. (N. S.) 806 (1913), note in 11 L. R. A. 761.

63. Yazoo & M. V. R. Co. v. Georgia Home Ins. Co., 85 Misc. 7, 37 So. 500, 67 L. R. A. 646. But see Runyan v. Central R. Co., 61 N. J. L. 541, 41 Atl. 367, 43 L. R. A. 284, 68 Am. St. Rep. 711.